

## EXHIBIT 2

APR 5 2022

## IN THE UTAH COURT OF APPEALS

<p>KEMING LU, Petitioner, <i>v.</i> UTAH LABOR COMMISSION, AND NORTHERN UTAH HEALTHCARE CORPORATION D/B/A ST. MARKS HOSPITAL Respondents.</p>	<p>ORDER OF SUMMARY AFFIRMANCE</p> <p>Case No. 20220188-CA</p>
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Before Judges Orme, Christiansen Forster, and Hagen.

Keming Lu (Petitioner) seeks judicial review of the Appeals Board of the Utah Labor Commission's (the Board) January 19, 2022 decision. This matter is before the court on its own motion for summary disposition. We decline to disturb the Board's decision.

Petitioner filed a complaint with the Utah Antidiscrimination and Labor Division (the UALD) alleging that St. Mark's Hospital subjected her to unlawful discrimination based upon her race and national origin. The UALD investigated Petitioner's claims and determined that she was not subjected to discriminatory practices. Petitioner appealed the UALD's decision to the Adjudication Division.

Petitioner's appeal was assigned to Administrative Law Judge Decker, who held an evidentiary hearing before retiring from the Commission. Following Judge Decker's retirement, the appeal was reassigned to Administrative Law Judge Newman. Following the evidentiary hearing, Petitioner attempted to submit additional evidence, which was excluded by Judge Newman. Judge Newman dismissed Petitioner's complaint after determining that Petitioner failed to demonstrate that she was subjected to unlawful discrimination, harassment, or retaliation. Petitioner appealed the Division's decision to the Board.

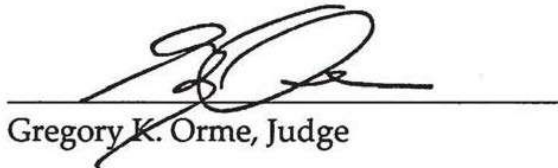
The Board also determined that Petitioner did not meet her burden of demonstrating that she was subjected to unlawful discrimination, retaliation, or harassment. In reaching this decision, the Board determined that Petitioner failed to demonstrate any impropriety in the reassignment of her case to Judge Newman following Judge Decker's retirement. The Board also determined that Petitioner failed to demonstrate that Judge Newman was biased against her, or that Judge Newman erred in excluding her untimely evidence. The Board affirmed the Division's decision. Petitioner sought judicial review of the Board's decision.

Based upon Petitioner's docketing statement, this matter was identified as a candidate for summary disposition. If a Petitioner's response to a motion for summary disposition does not tailor a specific challenge to the rationale of the Board's decision, its determination is placed beyond the reach of judicial review, and an appellate court will not seek out errors in the Board's decision. *See Martinez v. Department of Workforce Servs.*, 2011 UT App 273, ¶ 5, 263 P.3d 457. Furthermore, where the petitioner fails to provide the requisite legal argument and analysis of a challenged issue on appeal, an appellate court may decline judicial review. *See id.* Petitioner's response to this court's motion for summary disposition fails to carry her burden of demonstrating that there is a substantial question for judicial review. *See Partlow Investment Properties v. Yamamoto*, 2013 UT App 259, ¶ 5, 314 P.3d 1090.

Accordingly, this court declines to disturb the Board's January 19, 2022 decision.

DATED this 5th day of April, 2022.

FOR THE COURT:



Gregory K. Orme, Judge

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2022, a true and correct copy of the foregoing ORDER was deposited in the United States mail or was sent by electronic mail to be delivered to:

KEMING LU  
KEMINGXJ@YAHOO.COM

CHRISTOPHER C. HILL  
CHILL@UTAH.GOV

KIRSTEN R. ALLEN  
KALLEN@FABIANVANCOTT.COM

LISA HOGAN  
NICHOLAS R. SANTUCCI  
LHOGAN@BHFS.COM  
NSANTUCCI@BHFS.COM

LABOR COMMISSION  
sdanielson@utah.gov

By *Alexis Ney*  
Alexis Ney  
Judicial Assistant

Case No. 20220188  
LABOR COMMISSION, 8090160